

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION

<p>SCOTT D. KEITH,</p> <p style="text-align: center;">Plaintiff,</p> <p style="text-align: center;">vs.</p> <p>CITY OF TEA SD, TEA POLICE DEPT., JESSICA QUIGLEY, CHIEF OF POLICE, TEA SD; CITY OF TEA POLICE OFFICERS, TWO UNKNOWN; LINCOLN COUNTY SHERIFF SWENSON, LINCOLN COUNTY SHERIFF'S DEPT., LINCOLN COUNTY DEPUTY, UNKNOWN; AND LINCOLN COUNTY,</p> <p style="text-align: center;">Defendants.</p>	<p style="text-align: right;">4:19-CV-04157-LLP</p> <p style="text-align: center;">ORDER GRANTING PLAINTIFF'S MOTION TO APPEAL WITHOUT PREPAYMENT OF FEES</p>
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Plaintiff, Scott D. Keith, filed a pro se civil rights lawsuit under 42 U.S.C. § 1983. Doc. 1. At the time Keith filed this action he was an inmate at the Minnehaha County Jail. *Id.* Keith notified the Court that he was extradited to Lyon County Jail in Rock Rapids, Iowa. Doc. 6. Keith has since been released and is not on parole. Doc. 13. This Court entered judgment in favor of defendants and Keith filed a notice of appeal. Docs. 11 and 15. Keith now moves to appeal without prepayment of fees and provides a financial affidavit. Doc. 16.

Because Keith is no longer incarcerated, or on parole, he is not considered a prisoner for purposes of the Prison Litigation Reform Act. *Nerness v. Johnson*, 401 F.3d 874, 876 (8th Cir. 2005). “[I]n forma pauperis status does not require a litigant to demonstrate absolute destitution.” *Lee v. McDonald’s Corp.*, 231 F.3d 456, 459 (8th Cir. 2000). But in forma pauperis status is a privilege, not a right. *Williams v. McKenzie*, 834 F.2d 152, 154 (8th Cir. 1987). Federal Rule 24

of Appellate Procedure requires an appellant seeking to proceed *in forma pauperis* on appeal to so move in the district court and file an affidavit that: “(A) shows in the detail prescribed by Form 4 of the Appendix of Forms the party’s inability to pay or to give security for fees and costs; (B) claims an entitlement to redress; and (C) states the issues that the party intends to present on appeal.” Fed. R. App. P. 24(a)(1). Keith’s affidavit in support shows that he qualifies for in forma pauperis status. *See* Doc. 16.

Thus, it is ORDERED

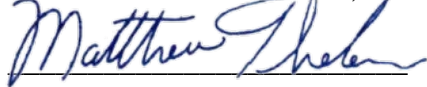
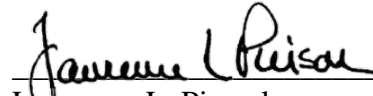
1. Keith’s motion to appeal without prepayment of fees, Doc. 16, is granted.

DATED May 20, 2020.

BY THE COURT:

ATTEST:

MATTHEW W. THELEN, CLERK

Handwritten signature of Matthew W. Thelen in blue ink, written over a horizontal line.Handwritten signature of Lawrence L. Piersol in blue ink, written over a horizontal line.
Lawrence L. Piersol
United States District Judge